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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4689

12 **RITE CARE PHARMACY**  
17200 Ventura Blvd, Suite 223A  
13 Encino, CA 91316

**ACCUSATION**

14 **Permit No. PHY 44192**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity  
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about March 23, 1999, the Board of Pharmacy issued Permit Number PHY  
21 44192 to Jasmine Hashemieh-Estes to do business as Rite Care Pharmacy. From March 23, 1999  
22 to January 25, 2005, Jasmine Hashemieh-Estes was the sole owner of Rite Care Pharmacy.

23 3. On or about January 25, 2005, the Board of Pharmacy issued Permit Number PHY  
24 44192 to Rite Care Pharmacy, Inc. to do business as Rite Care Pharmacy. Since January 25,  
25 2005, Jasmine Hashemieh-Estes has been the President of Rite Care Pharmacy, Inc.

26 4. Permit Number PHY 44192 issued to Rite Care Pharmacy ("Respondent Rite Care")  
27 was in full force and effect at all times relevant to the charges brought herein and will expire on  
28 March 1, 2014, unless renewed.

## JURISDICTION

5. This Accusation is brought before the Board of Pharmacy ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

6. Section 4300.1 of the Code states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

## STATUTORY PROVISIONS

7. Section 4300 of the Code provides in pertinent part that every license issued by the Board is subject to discipline, including suspension or revocation.

8. Section 4037, subdivision of the Code states:

"'Pharmacy'" means an area, place, or premises licensed by the board in which the profession of pharmacy is practiced and where prescriptions are compounded. "Pharmacy" includes, but is not limited to, any area, place, or premises described in a license issued by the board wherein controlled substances, dangerous drugs, or dangerous devices are stored, possessed, prepared, manufactured, derived, compounded, or repackaged, and from which the controlled substances, dangerous drugs, or dangerous devices are furnished, sold, or dispensed at retail."

9. Section 4043, subdivision (a) states:

"'Wholesaler'" means and includes a person who acts as a wholesale merchant, broker, jobber, customs broker, reverse distributor, agent, or a nonresident wholesaler, who sells for resale, or negotiates for distribution, or takes possession of, any drug or device included in Section 4022. Unless otherwise authorized by law, a wholesaler may not store, warehouse, or authorize the storage or warehousing of drugs with any person or at any location not licensed by the board."

10. Section 4312 of the Code states, in pertinent part:

"(a) The board may cancel the license of a wholesaler, pharmacy, or veterinary food-animal drug retailer if the licensed premises remain closed, as defined in subdivision (e), other than by order of the board. For good cause shown, the board may cancel a license after a shorter period of closure. To cancel a license pursuant to this subdivision, the board shall make a diligent, good faith effort to give notice by personal service on the licensee. If a written objection is not received within 10 days after personal service is made or a diligent, good faith effort to give notice by personal service on the licensee has failed, the board may cancel the license without the necessity of a hearing. If the licensee files a written objection, the board shall file an accusation based on the licensee remaining closed. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted in that chapter.

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"(e) For the purposes of this section, "closed" means not engaged in the ordinary activity for which a license has been issued for at least one day each calendar week during any 120-day period."

## COST RECOVERY

11. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

**CAUSE FOR DISCIPLINE**

**(Pharmacy Closed)**

12. Respondent Rite Care is subject to disciplinary action under Code section 4312, subdivisions (a) and (e) on the grounds that it has been closed from at least 2009 through 2012 because it has not engaged in the ordinary activity for which its pharmacy license was issued for at least one day each calendar week during any 120 day period. The circumstances are as follows:

1 13. During a routine inspection on November 14, 2012, a representative from the Board  
2 discovered that Respondent Rite Care did not have any prescription drugs (including controlled  
3 substances) in stock, had not dispensed any prescription drugs for over three years, had not  
4 contracted with any wholesalers (as that term is defined in Code section 4043) for at least the past  
5 three years, had not administered vaccinations for the past five years, and had not ordered any  
6 controlled substances for the past ten years. Respondent Rite Care's inventory consisted entirely  
7 of homeopathic and natural medicine and most, if not all, of the pharmacy's invoices were from  
8 manufacturers or wholesalers of homeopathic medicine.

9 14. At the conclusion of the November 14, 2012 inspection, the Board's representative  
10 personally gave written notification of the Board's intention to cancel Respondent Rite Care's  
11 pharmacy license to Pharmacist-In-Charge Jasmine Hashemieh-Estes.

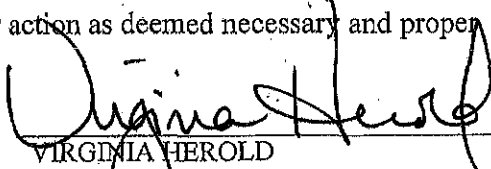
12 15. On or about November 19, 2012, Respondent Rite Care filed a written objection to  
13 the notice of cancellation.

14 PRAYER

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Board of Pharmacy issue a decision:

- 17 1. Revoking or suspending Permit Number PHY 44192, issued to Rite Care Pharmacy;  
18 2. Ordering Rite Care Pharmacy to pay the Board of Pharmacy the reasonable costs of  
19 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
20 125.3; and  
21 3. Taking such other and further action as deemed necessary and proper

22 DATED: 12/2/13

  
23 VIRGINIA HEROLD  
24 Executive Officer  
25 Board of Pharmacy  
26 Department of Consumer Affairs  
27 State of California  
28 Complainant

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